

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BENJAMIN MCCARTY,

Defendant.

Case No. 2:16-cr-00327-JCM-GWF

ORDER

This matter is before the Court on Defendant's Motion to Continue (ECF No. 12), filed on December 16, 2016. The Court instructed the Government that if it intended to file an opposition to Defendant's Motion, it must do so by December 27, 2016. *See* ECF No. 13. To date, the Government has not filed an opposition to Defendant's Motion and the time for response has now expired. The Court continues the trial of this action pursuant to the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. On November 9, 2016, a grand jury returned an indictment against Defendant charging him with Bribery of a Public Official in violation of 18 USC § 201.

2. On November 17, 2016, Defendant had his initial appearance and arraignment. Defendant was released on PR bond under special conditions. Trial was set for January 23, 2017.

3. On November 17, 2016, the Court entered its Order regarding pretrial procedure. The deadline to file and serve any and all pretrial motions and notices of defense was set for December 17, 2016. Defendant represents that the Government has not provided him with discovery and therefore requests a ninety day continuance of the trial and motion dates.

4. The continuance ordered herein is not sought or imposed for purposes of or to excuse any

1 delay, but is ordered merely to allow counsel for the parties sufficient time to complete necessary pretrial
2 motion and trial preparation.

3 For all of the above-stated reasons, the ends of justice will best be served by a continuance of the
4 trial date.

5 **CONCLUSIONS OF LAW**

6 The ends of justice served by ordering said continuance outweigh the best interest of the public
7 and the defendants in a speedy trial, since the failure to order said continuance would be likely to result
8 in a miscarriage of justice, would deny the parties herein sufficient time and the opportunity within
9 which to be able to effectively and thoroughly prepare for trial, taking into account the exercise of due
10 diligence.

11 The continuance ordered herein is excludable under the Speedy Trial Act, Title 18 United States
12 Code Section 3161(h)(7) and 3161(h)(7)(A), when considering the factors under Title 18 United States
13 Code Section 3161(h)(7)(B)(i) and 3161(h)(7)(B)(iv).

14 **ORDER**

15 **IT IS HEREBY ORDERED** that Defendant's Motion to Continue (ECF No. 12) is **granted**.

16 **IT IS FURTHER ORDERED** that the each party shall have until March 17, 2017 within which
17 to file and serve any and all pretrial motions and notices of defense.

18 DATED this 3rd day of January, 2017.

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21 GEORGE FOLEY, JR.
22 United States Magistrate Judge
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